

R.C.S. 40/14

Order below Exh.126 (Delay Condonation Appln.)

This is an application for condonation of delay caused to take legal representatives of defendant no. 15 Vishram Ragho Mohite on record. As per the plaintiff, defendant no. 15 Vishram Ragho Mohite was died on 11/08/2021. After the death of the defendant no.15, there are surviving legal representatives of the deceased defendant no.15 and they have to be on record for just the decision of this case. Delay is not intentional hence prayed to allow said application and condone the delay caused.

02. Defendant no. 1 to 14 failed to filed their say hence application proceeded without their say. Proposed LR's of defendant no. 15 and defendant no. 16 to 27 filed their say. As per their submission present application is false and frivolous. As the plaintiffs know death of the defendant no. 15 but they have not taken any step to bring LR's of deceased. Reason is not justified. Hence prayed to reject application with cost.

03. In present suit the abatement order passed against defendant no. 15 Vishram Ragho Mohite is set aside through the order below exhibit 125. Article 120 of the Limitation Act, 1963 stipulates that an application to have the legal representative of a deceased plaintiff or appellant or defendant, or respondent shall be filed within ninety days from the date of death of the said party. If a party fails to do so then the suit gets abated against that party. On perusal of copy of the death certificate filed at exh. 124, it appears that defendant no. 15 Vishram Ragho Mohite was died on 11/08/2021. Thereafter the plaintiff has to take legal representatives of defendant on record within 90 days but the plaintiff failed to do so.

04. On perusal of the application reason cited for the delay is not justifiable and not supported by any document. But it is a well-

settled principle of law that this type of application shall be considered liberally. Further, by allowing this application no prejudice will be caused to any party on the contrary it will help to decide the present suit on merit.

05. In given circumstances, the delay condonation application needs to be allowed in the interest of justice subject to a cost of this application that can be saddled on the applicant while condoning the delay. Hence, in the interest of the justice I pass the following order:-

ORDER

1. Delay condonation application is allowed.
2. Cost of this application is on the applicant.

Date:16/06/2023
Place: Lanja.

(P. R. Bhosale)
Civil Judge Junior Division.
Lanja.

CERTIFICATE

I affirm that the contents of this pdf file Order are same words as per original Order,

Case No : *R.C.S. No 40 of 2014*

Name of the Stenographer: *S. D. Chavan*

Court Name: *Civil & Criminal Court, Lanja,
Dist.Ratnagiri,*

Date of decision : *16/06/2023.*

Judgment/Order signed by P.O.on : *16/06/2023*

Judgment/Order uploaded on : *16/06/2023.*